



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: American Lock Company

File: B-235499

Date: August 10, 1989

DIGEST

Agency decision to delete picking and bypassing requirement for locks was based on agency conclusion that a higher security lock did not reflect its minimum needs. Absent evidence of favoritism, fraud, or intentional misconduct by government officials, General Accounting Office will not question an agency's decision to relax solicitation requirements and thus enhance competition.

DECISION

American Lock Company protests the Defense Industrial Supply Center's amendment to invitation for bids (IFB) No. DLA500-89-B-0492, for padlock sets. American Lock objects to the elimination of the requirement that the padlocks resist picking and bypassing.

We deny the protest.

On March 8, 1989, the agency issued the solicitation for a fixed-price requirements contract for 35 line items of low security padlocks, in accordance with a specification applicable to all military services. Prior to this solicitation, in January 1989, the agency had suspended shipments of the padlocks of the current contractor, Eagle Lock Company, because testing of the locks revealed problems with the lock's shackle hardness and resistance to picking and bypassing. The agency therefore notified the contractor of the deficiency and offered Eagle the opportunity to cure it. Since the agency found itself with a large number of the Eagle locks on hand, it asked the joint requirements working group, which has the task of making all determinations relating to the physical security equipment requirements of the services, to evaluate the need for the picking and bypassing requirement and to provide advice as to disposition of the locks.

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The working group, comprised of representatives from each service and chaired by the representative from the Naval Civil Engineering Laboratory, which issued the military specification, made a determination to distribute the Eagle locks to using agencies, with a reminder that they were not to be used to protect arms, ammunition or explosives. The working group reasoned that the basic purpose of the padlocks was to serve as a reusable seal for nonsecure applications such as tool boxes, foot lockers, paint sheds, supply closets and gates, rather than for high security needs. As long as the services used Eagle locks in low security situations, the working group felt that the picking and bypassing requirement was not necessary. The working group decided therefore to recommend distribution of the locks on hand, to direct elimination of the picking and bypassing requirement for future procurements, and to modify existing solicitations that had not opened.

On April 25, the agency amended the protested solicitation to remove the specification requirement that the padlock resist picking and bypassing not less than 50 seconds during testing. On May 11, American Lock Company filed this protest.

The protester argues that the unamended padlock specification is a military specification that establishes the government's need for locks with resistance to picking and bypassing and that the procuring agency had no basis to delete this requirement. The protester contends that the agency is deleting the requirement to avoid the embarrassment of having accepted defective locks previously from Eagle. The protester argues that the relaxed requirement for low security locks does not represent the government's minimum needs.

It is a general rule of federal procurement that specifications should be drafted in such a manner that competition is maximized, unless a restrictive requirement is necessary to meet the government's legitimate minimum needs. APEC Technology Ltd., 65 Comp. Gen. 230 (1986), 86-1 CPD ¶ 81. Further, absent evidence of favoritism, fraud, or intentional misconduct by government officials, we will not question an agency's decision to relax solicitation requirements and thus enhance competition. Id. We find no such evidence here.

The record shows that the joint requirements working group was authorized to define the government's needs for padlocks, and that prompted by the problem with the Eagle locks, the working group made a reasonable decision that previous solicitations had overstated those needs. Although

it was the agency's problems with the Eagle locks that prompted the working group to review the picking and bypassing requirement, we cannot find that the working group was unreasonable in directing the agency to eliminate this requirement based on its view that the services' actual need was for a lock for nonsecure applications. While the protester argues that a more restrictive specification, which would benefit the protester, is needed by the government, a protester's presumable interest as a beneficiary of more restrictive specifications is not protectable under our bid protest function, absent evidence of fraud or willful misconduct on the part of procurement officials. Container Prods. Corp., B-232953, Feb. 6, 1989, 89-1 CPD ¶ 117. No such evidence has been offered.

The protest is denied.



James F. Hinchman
General Counsel